

ORDINANCE NO. 2007-35

AN ORDINANCE, of the City of Wenatchee, Washington, adopting the administration regulations for the development code, repealing Ordinance Nos. 3175, 99-39, and 98-41, Section 11, and establishing an effective date.

THE CITY COUNCIL OF THE CITY OF WENATCHEE FINDS as follows:

1. The City of Wenatchee did, in Ordinance No. 2007-07, passed April 26, 2007, its comprehensive plan meeting the requirements of Chapter 36.70A RCW.
2. The City of Wenatchee is authorized and required by RCW 36.70A.040 to adopt development regulations to implement the comprehensive plan.
3. The City of Wenatchee has adopted its new zoning code in Ordinance No. 2007-34 passed October 11, 2007.
4. A draft of this ordinance was transmitted to the Washington State Department of Community, Trade and Economic Development in accordance with RCW 36.70A.106(1) on April 23, 2007.
5. In accordance with the State Environmental Policy Act, Chapter 43.21C RCW, a Determination of Significance and Adoption of Existing Environmental Documentation (Final Supplemental Environmental Impact Statement for the 2007 Wenatchee Urban Area Comprehensive Plan) for the Wenatchee zoning code was issued July 13, 2007.

6. The City of Wenatchee Planning Commission conducted duly advertised public hearings on August 1, August 15, and September 19, 2007, to which interested persons were invited to appear and comment.

7. The City Council, upon receiving an affirmative recommendation from the Planning Commission, conducted a duly advertised public hearing on October 11, 2007.

8. The City Council has found that all applicable and substantive requirements of law have been met, that the adoption of this ordinance promotes the public health, safety, and general welfare, and that this ordinance serves the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WENATCHEE, as follows:

SECTION I

Ordinance Nos. 3175, 99-39, and 98-41, Section 11, shall be and hereby are repealed.

SECTION II

The Development Code Administration Chapter as set forth on Exhibit "A" attached hereto and incorporated herein as if fully set forth, shall be and hereby is approved and adopted in its entirety.

SECTION III

As required by RCW 36.70A.106(2), a complete and accurate copy of this ordinance shall be transmitted to the State of Washington, Department of Community, Trade and Economic Development within ten (10) days of final adoption.

SECTION IV

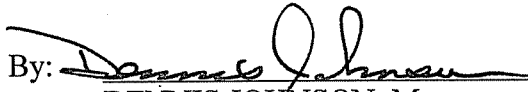
In the event any one or more of the provisions of this ordinance shall for any reason be held to be invalid, such invalidity shall not affect or invalidate any other provision of this ordinance, but this ordinance shall be construed and enforced as if such invalid provision had not been contained therein; provided, that any provision which shall for any reason be held invalid shall be in effect to the extent permitted by law.

SECTION V

This Ordinance shall be in full force and effect thirty (30) days following publication of a summary hereof consisting of the title.

PASSED BY THE CITY COUNCIL OF THE CITY OF WENATCHEE
at a regular meeting thereof this 12 day of Oct, 2007.

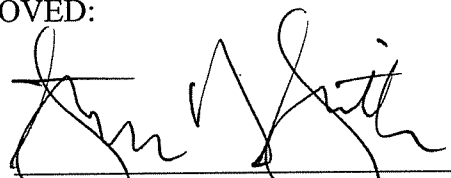
CITY OF WENATCHEE, a Municipal Corporation

By: 
DENNIS JOHNSON, Mayor

ATTEST:

By: 
VICKI REISTER, City Clerk

APPROVED:

By: 
STEVE D. SMITH, City Attorney

**Exhibit "A" to Ordinance No.
Title 13
DEVELOPMENT CODE ADMINISTRATION**

Chapters:

- 13.01 Introduction**
- 13.03 Administration**
- 13.05 Application Forms**
- 13.07 Application Process**
- 13.09 Application Review**
- 13.11 Appeals**
- 13.13 Enforcement**

Chapter 13.01 INTRODUCTION

Sections:

- 13.01.010 Purpose and Applicability**
- 13.01.020 Supersedes Where Conflict**
- 13.01.030 Rules of Interpretation**
- 13.01.040 Definitions**

13.01.010 Purpose and Applicability

The purpose of this title is to prescribe the manner in which permits for development and construction are classified and processed, and the general procedures and practices for development permit administration.

The purpose of chapters 13.01, 13.03, 13.05, 13.07 and 13.09 of this code is to enact the processes and time lines for local land development permitting. The objectives of these chapters are to encourage the preparation of appropriate information early in the permitting process, to process permit applications in a timely manner, to provide the general public with an adequate opportunity for review and comment, to integrate environmental review with development project review, and to provide the development community with a standardized process and predictability.

This title shall apply to permit applications for land development that are regulated by the Wenatchee City Code (WCC), including without limitation the following:

Title 2 Buildings and Construction
Title 10 Zoning
Title 11 Subdivisions
Title 12 Environmental Protection

Certain chapters within this Title may apply to other Titles within the WCC, as indicated elsewhere in the WCC. Other laws, ordinances, regulations and plans have a direct impact on the development of land. These include, but are not limited to, the Wenatchee Urban Area Comprehensive Plan, the Wastewater Facilities Plan, the Comprehensive Water System Plan, the Six Year Transportation Improvement Program, the Wenatchee City Code (WCC), the International Building Code, and the laws, ordinances, regulations and plans of federal, state and local agencies.

13.01.020 Supersedes Where Conflict

This title of the Wenatchee City Code (WCC) shall supersede other Titles, Chapters and Sections of the WCC where conflict exists.

13.01.030 Rules Of Interpretation

For the purposes of this Title, all words used in the code shall have their normal and customary meaning, unless specifically defined otherwise in the code.

Words used in the present tense include the future.

The plural includes the singular and vice-versa.

The words "will" and "shall" are mandatory.

The word "may" indicates that discretion is allowed.

The word "used" includes designed, intended or arranged to be used.

The masculine gender includes the feminine and vice-versa.

Distances shall be measured horizontally unless otherwise specified.

The word "building" includes a portion of a building or a portion of the lot on which it stands.

13.01.040 Definitions

Unless the context clearly requires otherwise, the definitions in this section apply throughout this title:

"Application" means a request for any land use permit required from the City for proposed development or action, including without limitation, building permits, conditional uses, binding site plans, planned developments, subdivisions, short subdivisions, variances, permits or approvals required by critical area ordinances and site-specific rezones.

"Closed record appeal" means an appeal on the record with no new evidence or information allowed to be submitted and only appeal argument allowed.

"Closed record decision" A closed record decision is a proceeding which does not involve an open record public hearing, but instead entails a review and decision based on the record already established before the hearing body. No new evidence or testimony is allowed at a closed record decision hearing.

"Open record hearing" means a hearing that creates the record through testimony and submission of evidence and information. An open record hearing may be held on an appeal if no open record hearing has previously been held on the application.

"Public meeting" means an informal meeting, hearing, workshop, or other public gathering to obtain comments from the public or other agencies on an application. A public meeting does not constitute an open record hearing.

Chapter 13.03 ADMINISTRATION

Sections:

- 13.03.010 Roles And Responsibilities.**
- 13.03.020 Community Development Director.**
- 13.03.030 City Council.**
- 13.03.040 Planning Commission.**
- 13.03.050 Hearing Examiner.**

13.03.010 Roles and responsibilities

- A. The regulation of land development is a cooperative activity including elected officials, the planning commission, the hearing examiner and City staff. The specific responsibilities of these bodies are set forth below.
- B. A developer is expected to read and understand the City development code and be prepared to fulfill the obligations placed on the developer by the WCC, particularly Titles 2 and 10 through 12.

13.03.020 Community Development Director

The Community Development Director shall review and act on the following:

- A. Authority. The Community Development Director is responsible for the administration of WCC Titles 2, 10, 11, 12, 13 and associated RCW's and WAC's.
- B. Administrative Interpretation. Upon request or as determined necessary, the Community Development Director shall interpret the meaning or application of the provisions of said titles and issue a written administrative interpretation within 30 days. Requests for interpretation shall be written and shall concisely identify the issue and desired interpretation.
- C. Administrative Decisions. The Community Development Director is responsible for issuing administrative decisions as set forth in WCC 13.09.030 and 13.09.040.

13.03.030 City Council

The City Council shall review and act on the following subjects:

- A. Recommendations of the planning commission;
- B. Final subdivision plat approvals in accordance with the procedures for closed record decisions pursuant to 13.09.080

13.03.040 Planning Commission

The planning commission shall review and make recommendations on the following issues:

- A. Amendments to the comprehensive plan;
- B. Amendments to the zoning code, WCC Title 10, including changes to the Official Zoning Map which are of general applicability;
- C. Amendments to the subdivision code, WCC Title 11; and,

- D. Amendments to the environment code, WCC Title 12, except to the SEPA Procedures Code, Chapter 12.04
- E. Preliminary and Final Major Subdivisions
- F. Planned Developments
- G. Rezones which are not of general applicability (site specific)
- H. Other actions requested or remanded by the City Council

13.03.050 Hearing Examiner

The Hearing Examiner shall review and make decisions on the following applications:

- A. Applications for variances and conditional use permits;
- B. Amendments and/or alterations to plats;
- C. Petitions for plat vacations;
- D. Appeals alleging an error in administrative interpretations or the enforcement of the zoning code or any other part of the development code;
- E. Appeals alleging an error in an administrative decision regarding action on a short subdivision or binding site plan;
- F. Appeals alleging an error in administrative decisions or determinations pursuant to chapter 43.21C RCW; and
- G. Any other matters as specifically assigned to the hearing examiner by the City Council or as prescribed by the City code.

**Chapter 13.05
APPLICATION FORMS**

Sections:

13.05.010 Application Forms.

13.05.010 Application Forms

- A. An application shall be made using the appropriate form provided by the City of Wenatchee.
- B. Each application form shall, at a minimum, include the following:
 - 1. The application form shall be filled out legibly, in blue or black ink, either hand printed or typewritten.
 - 2. The name, mailing address and telephone number of each applicant.
 - 3. The name, mailing address and telephone number of the applicant's representative, if any.
 - 4. The name, mailing address and telephone number of each owner of the subject property, if different than the applicant(s).
 - 5. The name, mailing address, telephone number and contractor registration number of the applicant's prime contractor, if any.
 - 6. The parcel number, legal description and assessor's parcel map for each parcel which is the subject of the proposed development.
 - 7. The signatures of each applicant or the applicant's representative, and each property owner if different than the applicant(s).
 - 8. Any other information, documents or materials, as determined by the City, which may be required in the body of the form or by an attachment to the form, e.g. a narrative description of the project, including a site plan as applicable.
- C. Each application form shall require designation of a single person or entity to receive determinations and notices required under this Code or by RCW Chapter 36.70B. Where a determination or notice to the "applicant" is required by this Code or RCW Chapter 36.70B, "applicant" shall mean the person or entity so designated.
- D. Each application shall contain the following statement: "This application shall be subject to all additions to and changes in the laws, regulations and ordinances applicable to the proposed development until a determination of completeness has been made pursuant to chapter 13.07 WCC".

**Chapter 13.07
APPLICATION PROCESS**

Sections:

13.07.010	Application Process
13.07.020	Formal Pre-Application Meeting
13.07.030	Consolidated Application Process
13.07.040	Plan Review
13.07.050	Determination of Completeness
13.07.060	Technical Review Committee
13.07.070	Application Vesting
13.07.080	Notice of Application
13.07.090	Notice of Public Hearing

13.07.010 Application Process

The application process shall consist of the following components:

- A. Formal Pre-Application Meeting
- B. Plan Review
- C. Determination of Completeness
- D. Technical Review Committee
- E. Notice of Application
- F. Application Review
- G. Notice of Final Decision

13.07.020 Formal Pre-Application Meeting

- A. All prospective applicants shall participate in a Formal Pre-Application Meeting. The City may waive the requirement of a Formal Pre-Application Meeting where proposed development is subject to Type I Administrative Review.
- B. The purpose of the Formal Pre-Application Meeting is to provide the applicant with the best available information regarding the development proposal and application processing requirements, and to assure the availability of complete and accurate development information necessary for review prior to the applicant's expenditure of application fees and the scheduling of the application review process.
- C. The Formal Pre-Application Meeting provides an opportunity for the applicant, staff and other agencies to informally discuss and review the proposed development, the application and permit requirements, fees, the review process and schedule, and applicable development standards, plans, policies, and laws.
- D. The Formal Pre-Application Meeting shall take place at the City's offices, unless another location is agreed upon by the City and the applicant. The length of the Formal Pre-Application Meeting shall be determined by the complexity of the development proposed by the applicant.
- E. The City will prepare and maintain a written summary of the pre-application meeting, including a list of any specific documents, information, legal descriptions or other requirements that must be submitted in addition to the requirements of the application.

- F. An applicant may request one or more additional Formal Pre-Application Meeting if the proposed development changes based on information received at the previous meeting. The additional meetings shall be subject to the same procedures as the initial Formal Pre-Application Meeting.
- G. Application forms shall be made available to the applicant following a Formal Pre-Application Meeting.
- H. Applicants for development may request an informal meeting prior to the Formal Pre-Application Meeting. The purpose of the meeting is to discuss, in general terms, the proposed development, City design standards, design alternatives and required permits and approval process(es).

13.07.030 Consolidated Application Process

- A. When more than one application for a proposed development is required, the applicant may elect to have all applications submitted for review at one time.
- B. Applications for proposed development and planned actions subject to the provisions of the State Environmental Policy Act (SEPA) shall be reviewed concurrently and in accordance with the state and local laws, regulations and ordinances.
- C. When more than one application is submitted under a consolidated review and the applications are subject to different types of review procedures, all of the applications for the proposed development shall be subject to the highest level of review procedure which applies to any of the applications.
- D. If an applicant elects a consolidated application process, the Determination of Completeness, the Notice of Application, and the Notice of Final Decision must include all applications being reviewed.

13.07.040 Plan Review

- A. After application materials are submitted by a project proponent following the Formal Pre-Application Meeting, a Plan Review shall be conducted by the City to determine if the application is complete. The Plan Review shall determine if adequate information is provided in or with the application in order to begin processing the application, and that all required information and materials have been supplied in sufficient detail to begin the application review process. All information and materials required by the application form and from the Formal Pre-Application Meeting must be submitted. All studies supporting the application or addressing projected impacts of the proposed development must be submitted.
- B. The purpose of the Plan Review is to ensure adequate information is contained in the application materials to demonstrate consistency with applicable comprehensive plans, development regulations and other applicable City codes. City staff will coordinate the involvement of agencies responsible for the review of setbacks, landscaping, parking, drainage, access, roads, traffic, signs, utilities and any other applicable requirements.

13.07.050 Determination of Completeness

- A. Within twenty-eight (28) days after receiving an application, the City shall complete the Plan Review of the application and provide the applicant a written determination that the application is either complete or incomplete.
- B. An application shall be determined complete only when it contains all of the following

information and materials:

1. A fully completed and signed application.
 2. Applicable review fees.
 3. All information and materials required by the application form.
 4. A fully completed and signed environmental checklist for projects subject to review under the State Environmental Policy Act.
 5. Any information required by the City's Resource Lands and Critical Areas provisions, if applicable.
 6. The information specified for the desired project in the appropriate Title of the WCC.
 7. A plot plan disclosing all existing and proposed structures and features applicable to the desired development, for example, parking, landscaping, preliminary drainage plans with supporting calculations, signs, setbacks, etc.
 8. Preliminary engineering for streets and utilities, if applicable.
 9. Any additional information and materials identified at the Formal Pre-Application Meeting or required by applicable development standards, plans, policies or any other federal, state or local laws.
 10. Any supplemental information or special studies identified by the City.
- C. For applications determined to be incomplete, the City shall identify, in writing, the specific requirements, information or materials necessary to constitute a complete application. Within fourteen (14) days after its receipt of the additional requirements, information or materials, the City shall issue a Determination of Completeness or identify the additional requirements, information, or materials still necessary for completeness. Failure to submit the requested information within sixty (60) days will result in a null and void application, with no refund of the filing fees.
- D. A Determination of Completeness shall identify, to the extent known, other local, state or federal agencies that may have jurisdiction over some aspect of the application.
- E. A Determination of Completeness shall not preclude the City from requesting additional information or studies if new information is required or a change in the proposed development occurs.
- F. Upon issuing a Determination of Completeness, the application materials, including the applicable SEPA review information, will be referred to appropriate agencies for review and comment.

13.07.060 Technical Review Committee

- A. Immediately following the Determination of Completeness, the City will schedule a meeting of the Technical Review Committee (TRC). The TRC may be composed of representatives of all affected City departments, utility districts, the fire department, and any other entities or agencies with jurisdiction.
- B. The TRC shall review the development application for issues including but not limited to compliance with City plans and regulations, coordination of necessary permit reviews, and identification of the development's potential environmental impacts.

13.07.070 Application Vesting

An application shall become vested on the date a Determination of Completeness is made under this title. Thereafter the application shall be reviewed under the codes, regulations and other laws in effect on the date of vesting; provided, in the event an applicant substantially changes his/her proposed development after a Determination of Completeness, as determined by the City, the application shall not be considered vested until a new Determination of Completeness on the changes is made under this title.

13.07.080 Notice of Application

- A. Within fourteen (14) days after issuing a Determination of Completeness, the City shall issue a Notice of Application. The notice shall include, but not be limited to the following:
1. The date of application, the date of the Determination of Completeness, and the date of the Notice of Application.
 2. A description of the proposed project action, a list of permits required for the application, and if applicable, a list of any studies requested.
 3. The identification of other required permits not included in the application, to the extent known by the City.
 4. The identification of existing environmental documents which evaluate the proposed development and the location where the application and any studies can be reviewed.
 5. A statement of the public comment period, which shall be fourteen (14) days following the date of the Notice of Application, and a statement of the right of any person to comment on the application, receive notice of and participate in any hearings, and request a copy of the decision once made, and a statement of any appeal rights.
 6. The date, time, location and type of hearing, if applicable and scheduled at the date of the Notice of Application.
 7. A statement of the preliminary determination, if one has been made at the time of Notice of Application, of those development regulations that will be used for project mitigation and of consistency with the type of land use of the proposed site, the density and intensity of proposed development, infrastructure necessary to serve the development, and the character of the development.
 8. Any other information determined by the City to be appropriate.
- B. Informing the Public. The Notice of Application shall be posted in the following manner:
1. It shall be posted on the subject property for the duration of the public comment period. The City shall post and maintain the notice throughout the entire public comment period. The location and manner of posting shall be determined by the City and shown on the applicant's site plan. The City will post the Notice of Application upon payment of all applicable fees. After the public comment period, the City staff person responsible for posting the notice of application shall sign an Affidavit of Posting before a notary public, using the form adopted by the City, and the Affidavit of Posting shall be placed in the application file.

2. It shall be posted at City Hall.
- C. The Notice of Application is not a substitute for any required notice of a public hearing.
- D. A Notice of Application is not required for the following actions, when they are categorically exempt from SEPA or environmental review has been completed:
1. An application for a single family residence, accessory uses or other minor construction building permits;
 2. Application for a lot line adjustment;
 3. Any application for which Type I Administrative Review is determined applicable.

13.07.090 Notice of public hearing

When required, notice of a public meeting or hearing for all development applications and all open record appeals shall be given as follows:

- A. Time of Notices. Except as otherwise required, public notification of meetings, hearings, and pending actions under WCC shall be made by:
1. Publication in the official newspaper at least 10 days before the date of a public meeting, hearing, or pending action; and
 2. Mailing at least 10 days before the date of a public meeting, hearing, or pending action to all property owners, as shown on the records of the county assessor, and all street addresses of properties within 350 feet, not including street rights-of-way, or the boundaries of the property which is the subject of the meeting or pending action; and
 3. Posting at least 10 days before the meeting, hearing, or pending action at City Hall.
- B. Content of Notice. The public notice shall include a general description of the proposed project, action to be taken, a non-legal description of the property or a vicinity map or sketch, the time, date and place of the public hearing and the place where further information may be obtained.
- C. Continuations. If for any reason, a meeting or hearing on a pending action cannot be completed on the date set in the public notice, the meeting or hearing may be continued to a date, time and place certain and no further notice under this section is required.

**Chapter 13.09
REVIEW AND APPROVAL PROCESS**

Sections:

- 13.09.010 Application Review Criteria**
- 13.09.020 Application Review Classification**
- 13.09.030 Type I Administrative Review of Applications**
- 13.09.040 Type II Administrative Review of Applications**
- 13.09.050 Type III Quasi-Judicial Review of Applications**
- 13.09.060 Legislative Review of Applications**
- 13.09.070 Notice of Final Decision**

13.09.010 Application Review Criteria

Review of an application and proposed development shall be governed by and be consistent with the fundamental land use planning policies and choices which have been made in the City's adopted comprehensive plans and development regulations. The review process shall consider the type of land use permitted at the proposed site, the density and intensity of the proposed development, the infrastructure available and needed to serve the development, the character of the development and its consistency with the comprehensive plan and development regulations. In the absence of applicable development regulations, the applicable development criteria in the comprehensive plan or sub-area plan adopted under RCW 36.70A shall be determinative.

13.09.020 Application Review Classification

- A. Following the issuance of a Determination of Completeness and a Notice of Application, an application shall be reviewed at one of four levels:
 - 1. Type I Administrative Review
 - 2. Type II Administrative Review
 - 3. Type III Quasi-Judicial Review
 - 4. Legislative Review.

- B. If this title or the WCC provides that a proposed development is subject to a specific type of review, or a different review procedure is required by law, then the application for such development shall be processed and reviewed accordingly. If this title does not provide for a specific type of review, or if a different review procedure is not required by law, then the City shall determine the type of review to be used for the type and intensity of the proposed development.

- C. Any public meeting or required open public hearing may be combined by the City with any public meeting or open record public hearing that may be held on the proposed development by another local, state, federal or other agency. Hearings shall be combined if requested by the applicant. However, joint hearings must be held within the City and within the time limits of this title and RCW Chapter 36.70B.

13.09.030 Type I Administrative Review of Applications

Type I Administrative Review shall be used when the proposed development is subject to clear, objective and non-discretionary standards that require the exercise of professional judgment about technical issues and the proposed development is categorically exempt from the State Environmental Policy Act (SEPA). Permits reviewed through this process are not subject to the requirements of Chapter 13.07. The City may approve, approve with conditions, or deny the application. The decision of the City is final unless an administrative appeal process is provided for in this or any other Title within the WCC. This type of review includes, but is not limited to, the following:

- A. Interpretation of codes and ordinances;
- B. Single family and other minor building permits not subject to environmental review;
- C. Fence permits;
- D. Boundary line adjustments;
- E. Fill and grade permits;
- F. Encroachment permits to work within a right-of-way;
- G. Flood development permits; and
- H. Minor amendments or modifications to approved developments or permits which may affect the precise dimensions or location of buildings, accessory structures and driveways, but do not affect the overall project character, increase the number of lots, dwelling units or density, or decrease the quality or amount of open space.

13.09.040 Type II Administrative Review of Applications

- A. Type II Administrative Review shall be used when the proposed development is subject to objective and subjective standards that require the exercise of limited discretion about non-technical issues and about which there may be limited public interest. The proposed development may or may not be subject to SEPA review. This type of review includes, but is not limited to, the following:

- 1. Short subdivisions;
 - 2. Binding site plans; and
 - 3. Multi-family, commercial, industrial and/or office building permits that are subject to environmental review pursuant to Title 12 and the State Environmental Policy Act (SEPA).

- B. The review procedure under Type II Administrative Review shall be as follows:
 - 1. If the proposed development is subject to the State Environmental Policy Act (SEPA), the threshold determination may be made concurrent with the public comment period required in the Notice of Application, pursuant to the provisions of WAC 197-11-355 "Optional DNS", and Chapter 12.04 of the WCC.
 - 2. The City may approve, approve with conditions, or deny the application after the date the application is accepted as complete, and upon completion of the public comment period and the comment period required by SEPA, if applicable. The decision of the City is final unless an administrative appeal process is provided

for in this or any other Title within the WCC. The City shall mail the notice of decision to the applicant and all parties of record. The decision shall be issued pursuant to 13.09.090 Notice of Final Decision.

13.09.050 Type III Quasi-Judicial Review of Applications

- A. Type III Quasi-Judicial Review shall be used when the development or use proposed under the application requires a public hearing before a hearing body which will generally be the Hearing Examiner or the Planning Commission. This type of review includes, but is not limited to, the following:
1. Administrative appeals;
 2. Preliminary subdivisions;
 3. Plat alterations and/or vacations;
 4. Conditional use permits;
 5. Planned developments;
 6. Variances;
 7. Rezones which are not of general applicability (site-specific); and
 8. Other similar development permit applications.
- B. The review procedure under Type III Quasi-Judicial Review shall be as follows:
1. A Type III Quasi-Judicial review process requires an open record public hearing before the appropriate hearing body which is generally the Hearing Examiner or the Planning Commission.
 2. The public hearing shall be held after the completion of the public comment period and the comment period required by SEPA, if applicable.
 3. At least ten (10) days before the date of a public hearing the City shall issue public notice of the date, time, location and purpose of the hearing, pursuant to 13.07.090.
 4. At least seven (7) days before the date of the public hearing, the City shall issue a written staff report, integrating the SEPA review and threshold determination and recommendation regarding the application(s), shall make available to the public a copy of the staff report for review and inspection, and shall mail a copy of the staff report and recommendation to the applicant or the applicant's designated representative. The City shall make available a copy of the staff report, subject to payment of a reasonable charge, to other parties who request it.
 5. Public hearings shall be conducted in accordance with the rules of procedure adopted by the hearing body. Lacking any adopted hearing procedures, the provisions of Section 13.09.070 shall be used to conduct the public hearing. A public hearing shall be recorded on either audio or audio-visual tape.
 6. Within ten (10) working days after the date the public record closes, the hearing body shall issue a written decision regarding the application(s).
 7. The hearing body may approve, approve with conditions or deny the application and shall mail the notice of its decision to the City, applicant, the applicant's designated representative, the property owner(s), and any other parties of

record. The decision shall be issued pursuant to 13.09.090 Notice of Final Decision.

13.09.060 Legislative Review of Applications

- A. Legislative Review shall be used when the proposed development involves the creation, implementation or amendment of City policy or law. Projects reviewed through this process are not subject to the requirements of Chapter 13.07. This type of review includes, but is not limited to, comprehensive plan, sub-area plan, zoning and/or development code reviews, amendments and updates.
- B. Legislative Review shall be conducted as follows:
 - 1. Legislative Review generally requires at least one public hearing before the planning commission, one public meeting before the City Council, and in most instances will involve at least one public hearing before the City Council.
 - 2. When an application by a private individual is part of the proposed legislative action, the application shall contain all information and material requirements, including the appropriate fee(s), required by the appropriate application form and any Formal Pre-Application Meeting.
 - 3. At least ten (10) days before the date of the first planning commission hearing the City shall issue public notice of the date, time, location and purpose of the hearing pursuant to 13.07.090. The notice shall include notice of the SEPA threshold determination issued by the City.
 - 4. At least seven (7) days prior to the hearing the City shall issue a written staff report, integrating the SEPA review and threshold determination and recommendation regarding the application(s), shall make available to the public a copy of the staff report for review and inspection, and shall mail a copy of the staff report and recommendation to the applicant or the applicant's designated representative, and planning commission members. The City shall make available a copy of the staff report, subject to a reasonable charge, to other persons who request it.
 - 5. Following the public hearing of the planning commission, in accordance with RCW 35A.63, a recommendation of the planning commission shall be forwarded to the City Council at the next regularly scheduled meeting. Upon receiving the recommendation from the planning commission, the City Council shall set a public meeting to consider the proposal, at which they may either accept or reject the recommendation.
 - 6. The council must hold a public hearing to consider any changes to the recommendation of the planning commission. The council may approve, approve with conditions, deny or remand the proposal back to the planning commission for further review after such public hearing.
 - 7. In the event the City council determines that the public hearing record of the Planning Commission is insufficient or otherwise flawed, the council may remand the matter back to the Planning Commission to correct the deficiencies. The council shall specify the items or issues to be considered and the time frame for completing the additional work.
 - 8. The final decision of the council shall be by ordinance, resolution or motion, as

appropriate. Where the final decision of the council is made by motion, it shall be in writing and shall include those items described in section 13.09.090.

13.09.070 Procedures for public hearings

Public hearings shall be conducted in accordance with the hearing body's rules of procedure and shall serve to create or supplement an evidentiary record upon which the body will base its decision. The public hearing shall be declared open and, in general, the following sequence of events shall be observed:

- A. Staff presentation, including submittal of any administrative reports. The hearing body may ask questions of the staff.
- B. Applicant presentation, including submittal of any materials. The hearing body may ask questions of the applicant.
- C. Testimony or comments by the public germane to the matter. Questions directed to the staff or the applicant shall be posed by the hearing body at its discretion.
- D. Rebuttal, response or clarifying statements by the staff and the applicant.
- E. The evidentiary portion of the public hearing shall be closed and, where applicable, the hearing body shall deliberate on the matter before it.

13.09.080 Procedures for closed record decisions and appeals

- A. Closed record decisions and appeals shall be conducted in accordance with the hearing body's rules of procedure as provided for public hearings above in Section 13.09.070.
- B. Pursuant to Section 13.03.030, the City Council shall hear closed record decisions on requests for final plat approval of a preliminary subdivision. The request shall consist of the following recommendations for approval or disapproval:
 - 1. A recommendation from the City water and sewer department as to the adequacy of the proposed means of sewage disposal and water supply;
 - 2. A recommendation from the City as to the compliance with all terms of the preliminary approval of the proposed subdivision; and
 - 3. A recommendation of approval or disapproval from the City engineer.
- C. Upon review of the request for final plat approval of a preliminary subdivision, the hearing body shall approve, disapprove or remand the final plat to the applicant with specific instructions for compliance with the preliminary subdivision approval.
- D. For closed record appeals, no new evidence or testimony shall be given or received, except that the parties to an appeal may submit timely written statements or arguments.

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13.09.090 Notice of Final Decision

- A. The City will strive to issue a written Notice of Final Decision on an application reviewed pursuant to either a Type II Administrative or a Type III Quasi-Judicial review process within one hundred twenty (120) days after the date of the Determination of Completeness. In determining the number of days that have elapsed, the following periods shall be excluded:
 - 1. Any period during which the applicant has been requested by the City to correct

plans, perform required studies, or provide additional information or materials. The period shall be calculated from the date the City issues the request to the applicant to, the earlier of, the date the City determines whether the additional information satisfies its request or fourteen (14) days after the date the information has been received by the City.

2. If the City determines the information submitted by the applicant under (I) of this subsection is insufficient, it shall again notify the applicant of deficiencies and the procedures under (I) of this subsection shall apply to the request for information;
3. Any period during which an environmental impact statement (EIS) is being prepared following a determination of significance pursuant to RCW 43.21C.
4. Any period for administrative appeals, which shall not exceed ninety (90) days for open record appeals and sixty (60) days for closed record appeals.
5. Any extension of time mutually agreed upon by the applicant and the City.

B. The time limit by which the City will strive to issue a written Notice of Final Decision does not apply if an application:

1. Requires an amendment to a comprehensive plan or development regulation.
2. Requires the siting of an essential public facility, as provided in RCW Chapter 36.70A and as may be hereafter amended.
3. Is substantially revised by the applicant after a Determination of Completeness has been issued, in which case the time period shall start from the date on which the revised project application is determined to be complete.

C. If the City is unable to issue its final decision within the time limits provided for in this section, it shall provide written notice of this fact to the applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the Notice of Final Decision.

D. In accordance with state law, the City is not liable for damages which may result from the failure to issue a timely Notice of Final Decision.

E. The written Notice of Final Decision for Type II Administrative decisions, Type III Quasi-Judicial decisions and legislative actions made by motion of the City shall include the following information:

1. A statement of the applicable criteria and standards in the development codes and other applicable law.
2. A statement of the findings of the review authority, stating the application's compliance or non-compliance with each applicable criterion, and assurance of compliance with applicable standards.
3. The decision to approve or deny the application and, if approved, conditions of approval necessary to ensure the proposed development will comply with all applicable laws.
4. A statement that the decision is final unless appealed as provided in Chapter 13.11 "Appeals". The statement shall state the appeal closing date and describe how a party may appeal the decision, including applicable fees and the elements

- of a notice of appeal.
5. A statement that the complete case file, including findings, conclusions and conditions of approval, if any, is available for inspection. The notice shall list the place, days and times when the case file is available for inspection and the name and telephone number of the City's representative to contact to arrange inspection.
 6. A written notice of decision rendered by the City Council may be in the form of the signed ordinance or resolution.
- F. **Effective Date.** The final decision of the council or hearing body shall be effective on the date stated in the notice of decision, resolution, or ordinance.

Chapter 13.11 APPEALS

Sections:

- 13.11.010 Appeal of administrative interpretations and approvals.**
- 13.11.020 Appeal of the hearing examiner's decision**
- 13.11.030 Administrative appeals.**
- 13.11.040 Judicial appeal**
- 13.11.050 Transcription costs and record preparation**
- 13.11.060 Reconsideration**

13.11.010 Appeal Of Administrative Interpretations And Decisions

Administrative interpretations and administrative decisions pursuant to Section 13.09.030[A] and Section 13.09.040 [A] and [B] may be appealed, by applicants or parties of record, to the Hearing Examiner as provided for in section 13.11.030. There are no administrative appeals of decisions issued pursuant to Section 13.09.030 [B] through [H].

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13.11.020 Appeal Of Hearing Examiner Decisions

Decisions of the Hearing Examiner may be appealed, by applicants or parties of record from the Hearing Examiner public hearing, to the Chelan County Superior Court as provided for in section 13.11.040; provided, however, that no final decision of the Hearing Examiner may be appealed to Chelan County Superior Court unless such party has first brought a timely motion for reconsideration of the Hearing Examiner's decision pursuant to Section 13.11.060.

Deleted: Appeals of a rezone not of general applicability (site-specific) shall be made to the Wenatchee City Council for review at a closed record appeal as provided for in 13.11.030. All other d

13.11.030 Administrative Appeals

- A. Filing. Every appeal to the Hearing Examiner shall be filed with the City within ten (10) days after the date of the decision of the matter being appealed. If the ten (10) day period ends on a weekend or on a holiday, the following working day shall be the tenth (10th) day.
- B. Contents. The notice of appeal shall contain a concise statement identifying:
 - 1. The decision being appealed;
 - 2. The name and address of the appellant and his/her interest(s) in the matter;
 - 3. The specific reasons why the appellant believes the decision to be wrong, including identification of each finding of fact, each conclusion, and each condition or action ordered which the appellant alleges is erroneous. The appellant shall bear the burden of proving the decision was wrong;
 - 4. The specific desired outcome or changes to the decision;
 - 5. The appeal fee.
- C. Process. Upon receipt of a notice of appeal containing all information required in (B) above, the City shall schedule with the applicable hearing body either an open record hearing or a closed record appeal hearing if an open record hearing has already been held on an application.
- D. Closed record appeals shall be conducted in accordance with the hearing body's rules of

procedure and shall serve to provide argument and guidance for the body's decision. Closed record appeals shall be conducted generally as provided for public hearings, except that no new evidence or testimony shall be given or received except as provided in item [3] below. The parties to the appeal may submit timely written statements or arguments.

1. A decision following a closed record appeal hearing shall include one of the following actions:
 - a) Grant the appeal in whole or in part.
 - b) Deny the appeal in whole or in part.
 - c) Remand for further proceedings and/or evidentiary hearing.
2. In the event the hearing body determines that the public hearing record or record on appeal is insufficient or otherwise flawed, it may remand the matter back to the hearing body to correct the deficiencies. The items or issues to be considered and the time frame for completing the additional work shall be specified.
3. The hearing body may receive new evidence in addition to that contained in the record on appeal only if it relates to the validity of the underlying decision at the time the decision was made and is needed to decide disputed issues regarding:
 - a) The proper constitution of or disqualification grounds pertaining to the decision maker (violations of the State's Appearance of Fairness statute).
 - b) The use of unlawful procedure.

13.11.040 Judicial Appeals

Appeals from the final decision of the City Council or Hearing Examiner involving Titles 10, 11, 12 or 13 WCC, and for which all other appeals specifically authorized have been timely exhausted, including the provisions of 13.11.060 below, shall be made to Chelan County Superior Court and served on all necessary parties within twenty one (21) days of the date the decision or action became final, unless another time period is established by state law or local ordinance. Notice of the appeal and any other pleadings required to be filed with the court shall be served on the Mayor and City Attorney within the applicable time period. This requirement is jurisdictional.

13.11.050 Transcription costs and record preparation

The cost of transcribing and preparing all records ordered certified by the court, required at the discretion of the Hearing Examiner or required at the discretion of the City Attorney shall be borne by the appellant.

13.11.060 Reconsideration

An applicant or party of record to a Hearing Examiner's public hearing may seek reconsideration only of a final decision by filing a written request for reconsideration with the

Administrator within ten (10) days of the final decision. The request shall comply with WCC 13.11.030[B]. The Hearing Examiner shall, within 30 days of receipt of the request for reconsideration, consider the request at a public meeting, without public comment or oral argument by the party filing the request. If the request is denied, the previous action shall become final. If the request is granted, the Hearing Examiner may immediately revise and reissue its decision or may call for argument in accordance with the procedures for closed record appeals. Reconsideration will be granted only when an obvious legal error has occurred or a material factual issue has been overlooked that would change the previous decision.

Chapter 13.13
ENFORCEMENT AND PENALTIES

Sections:

13.13.010 Purpose.

13.13.020 Approval and permit revocation, suspension and modification.

13.13.010 Purpose

The purpose of this chapter is to ensure compliance, abate noncompliance and punish violations of the WCC. The provisions WCC, Chapter 2.11 shall be applied and interpreted to accomplish this purpose.

13.13.020 Approval revocation, suspension and modification

- A. A permit, variance, subdivision or other land use approval may be revoked, suspended or modified on one or more of the following grounds:
1. Failure to complete corrective action as required pursuant to a notice of violation and order.
 2. The approval was obtained through fraud.
 3. The approval was obtained through inadequate or inaccurate information.
 4. The approval was issued contrary to law.
 5. The approval was issued under a procedural error which prevented consideration of the interests of persons directly affected by the approval.
 6. The approval is being exercised or implemented contrary to the terms or conditions of the approval or contrary to law.
 7. The use for which the approval was issued is being exercised in a manner which is detrimental to public health, safety or welfare.
 8. Interference with the performance of federal, state, county or City official duties.
- B. Action to revoke, suspend or modify a permit, subdivision, or other land use approval shall be taken by the enforcing official through issuance of a notice of violation and order as described in section 13.13.040.
- C. If a permit or approval is revoked for fraud or deception, no similar application shall be accepted for a period of one year from the date of final action and appeal, if any. If a permit or approval is revoked for any other reason, another application may be submitted subject to all of the requirements of the development code.